

**CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session**

August 12, 2010

Call to Order. Chairman Dan Schnur called the meeting to order at 10:00 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Schnur announced that Commissioner Tim Hodson was not attending the meeting, due to medical reasons, and wished him a speedy recovery. Chairman Dan Schnur, Commissioners Elizabeth Garrett, Lynn Montgomery and Ronald Rotunda were present.

PUBLIC COMMENT

1. **Public Comment.** This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed; request clarification; or refer the item to staff.

Chairman Schnur asked if anyone in the audience had comments on any items not on the agenda. JoAnn Fuller and Jim Rothstein spoke in support of campaign reform and increased disclosure for better transparency.

PROPOSED CONSENT CALENDAR – ITEMS 2 THROUGH 27

Chairman Schnur asked the Commissioners if they had any comments or questions on any of the items, and if there were any items they wanted removed from the consent calendar. There were none.

Moved by Commissioner Garrett and seconded by Commissioner Rotunda to adopt the consent calendar as proposed by staff.

AYES: Commissioners Garrett, Montgomery, Rotunda, and Chairman Schnur.

The motion passed 4-0.

2. **Approval of June 10, 2010, Commission meeting minutes.**
3. **In the Matter of Sacramento County Democratic Central Committee and William Guy Crouch, FPPC No. 09/740. (18counts) Total Monetary Penalty: \$36,500.**
4. **In the Matter of Ralph Widmar, Ralph Widmar for City Council Committee, and Henry Ruhnke, FPPC No. 08/247. (3 counts) Total Monetary Penalty: \$5,000.**
5. **In the Matter of Nevada County Republican Central Committee; William K. Neuharth, Treasurer, FPPC No. 08/255. (3 counts) Total Monetary Penalty: \$1,200.**

6. **In the Matter of the Friends of Terri Valladolid; Terri Valladolid; Elena L. Pascual, and Evita Valladolid, FPPC File No. 10/048. (6 counts) Total Monetary Penalty: \$1,200.**
7. **In the Matter of Jane Hopkins, FPPC No. 09/812. (1 count) Total Monetary Penalty: \$3,000.**
8. **In the Matter of Serco Management Services, Inc., FPPC No. 08/074. (5 counts) Total Monetary Penalty: \$15,000.**
9. **In the Matter of Norman Davis, FPPC No. 08/296. (1 count) Total Monetary Penalty: \$3,500.**
10. **In the Matter of Raj Abhyanker and Committee to Elect Raj Abhyanker for Cupertino City Council, FPPC No. 07/737. (4 counts) Total Monetary Penalty: \$15,000.**
11. **In the Matter of Chris Prentiss, FPPC No. 08/534. (3 counts) Total Monetary Penalty: \$9,000.**
12. **In the Matter of Lewis and Company, Inc., FPPC No. 06/155 (Default Decision). (2 counts) Total Monetary Penalty: \$7,000.**
13. **In the Matter of Stephen Laymon, FPPC No. 09/578 (Default Decision). (2 counts) Total Monetary Penalty: \$5,000.**
14. **In the Matter of Kristin Franklin, FPPC No. 08/024 (Default Decision). (2 counts). Total Monetary Penalty: \$4,000.**
15. **In the Matter of Raymond Jones, FPPC No. 08/405 (Default Decision). (1 count) Total Monetary Penalty: \$2,000.**
16. **In the Matter of Brett Davis, FPPC No. 08/089. (1 count) Total Monetary Penalty: \$400.**
17. **In the Matter of Daniel Bernhard, FPPC No. 09/430. (1 count) Total Monetary Penalty: \$1,000.**
18. **In the Matter of Jill Sherman-Warne, FPPC No. 09/007. (1 count) Total Monetary Penalty: \$800.**
19. **In the Matter of Gopal Chaturvedi, FPPC No. 09/564. (1 count) Total Monetary Penalty: \$200.**
20. **In the Matter of Jeffrey Wang, FPPC No. 09/460. (3 counts) Total Monetary Penalty: \$10,500.**
21. **In the Matter of Pam Slater-Price, FPPC No. 10/105. (10 counts) Total Monetary Penalty: \$2,000.**

- 22. **In the Matter of Richard Ramirez, FPPC No. 09/326.** (3 counts)
Total Monetary Penalty: \$600.
- 23. **In the Matter of Mark Melville, FPPC No. 09/079.** (2 counts) **Total Monetary Penalty: \$400.**
- 24. **In the Matter of Evelyn Fullmore, FPPC No. 10/239.** (1 count)
Total Monetary Penalty: \$200.
- 25. **In the Matter of Gary Svanda, FPPC No. 09/706.** (1 count) **Total Monetary Penalty: \$200.**
- 26. **In the Matter of Keith Webster, FPPC No. 09/228.** (1 count). **Total Monetary Penalty: \$200.**
- 27. **In the Matter of Coalition of Jim Gonzalez FPPC No. 10/503.** (2 counts)
Total Monetary Penalty: \$1,926.

GENERAL ITEMS 28 THROUGH 33

- 28. **Internet Political Activity and the Political Reform Act – Subcommittee Report.**
The Commission will consider recommendations concerning the Act’s regulation of internet political activity made by the Commission’s Subcommittee on the Political Reform Act and Internet Political Activity, jointly chaired by Commissioners Garrett and Hodson.

Commissioner Garrett presented an overview of the Subcommittee Report with assistance from Heather Rowan, Commission Counsel, Legal Division. Chairman Schnur asked if the Commissioners had any comments or questions. After discussion among the Commissioners, Chairman Schnur asked if anyone in the audience had comments regarding this item. Ezra Chaaban, with Capitol Advocacy, and Tim Valderrama, with TechNet, had some questions and both spoke in support of the Commission’s recommendations.

The Commissioners unanimously agreed to move forward with the Subcommittee’s recommendations and directed staff to prepare regulations for consideration at the October 14, 2010, Commission meeting.

- 29. **Review of Regulation 18225(b)(2) – Definition of “Express Advocacy.”**
Staff: Senior Commission Counsel Lawrence T. Woodlock and General Counsel Scott Hallabrin. Staff proposed that the Commission review the direction it gave to staff in 2003 to apply the definition of “express advocacy” in Regulation 18225(b)(2) more narrowly than permitted by the language of the regulation. That decision was based on the ruling in *The Governor Gray Davis Committee v. American Taxpayer Alliance* 102 Cal.App.4th 449 (2002), the application of which has been called into question by recent U.S. Supreme Court decisions culminating in *Citizens United v. FEC* 130 S.Ct. 876 (2010). Those decisions suggest that the U.S. Constitution does not require that the Commission interpret this regulation as narrowly as the *Davis* court seemed to require.

After discussion among the Commissioners, Chairman Schnur asked if anyone in the audience had comments or questions regarding this item. Former Senator Phil Wyman, speaking on his own behalf; James O'Hearn, Treasurer for Senator Wyman; Page Brocaw, speaking on behalf of Assemblyman Huffman; and Deanna Reader, speaking on her own behalf, offered comments in support of the Commissions recommendation.

Speaking in opposition to the Commissions recommendations were: Jim Parrinello, with Nielsen, Merksamer Parrinello; Deborah Caplan, with Olson, Hagel & Fishburn; Allison Hayward, Vice-President at the Center of Competitive Politics; and Steve Lucas, with Nielsen, Merksamer Parrinello.

Moved by Chairman Schnur and seconded by Commissioner Rotunda to approve staff's recommendations and direct staff to: 1) draft a regulation for adoption at the October Commission meeting that treats the phrase "unambiguously urges a particular result in an election" in Government Code Section 82031 and Regulation 18225(b)(2) as synonymous with the phrase "is susceptible of no reasonable interpretation other than as an appeal to vote for or against the specific candidate or measure and craft a regulation within these parameters including a non-exhaustive list of examples providing guidance to persons regulated by the Act; and 2) clarify between now (August 12) and November 3, 2010, that staff is to continue advising the public that a communication contains the words "express advocacy" for purposes of Regulation 18225(b)(2) only when it uses the express words of advocacy.

AYES: Commissioners Garrett, Rotunda, and Chairman Schnur

ABSTAIN: Commissioner Montgomery

The motion passed 3-0.

30. Discussion of Amendments to Regulations 18942 and 18944.1: Gift Exception for Ceremonial Role or Function. Staff: Commission Counsel William J. Lenkeit and General Counsel Scott Hallabrin. Regulation 18944.1 provides, among other things, that a free ticket or admission to an entertainment or sporting event provided to a public official is not a gift to that official if he or she performs a ceremonial role or function at the event. Staff proposed for discussion an amendment to the "ceremonial role" exception requiring the official to have posted on his or her agency's website specified information on the free ticket or admission and the ceremonial role performed at the event.

Staff was directed to prepare language for amendments to Regulations 18942 and 18944.1 for consideration at the September Commission meeting.

31. Legislative Report. Staff: Legislative Coordinator Tara Stock.

Ms. Stock gave an update to the Legislative Report as follows: AB 1743 passed out of Senate Appropriations and moved to the Senate floor; and SB 1007 and SB 1271 passed out of Assembly Appropriations and moved to the Assembly floor.

32. Litigation Report. Staff: General Counsel Scott Hallabrin. As submitted.

33. Executive Director's Report. Staff: Executive Director Roman Porter. As submitted.

Chairman Schnur announced that the Commission was not holding an executive session and, with no further business, adjourned the meeting at 1:05 p.m.

Dated: September 7, 2010

Respectfully submitted,

Beth Manwaring
Commission Assistant

Approved:

Dan Schnur
Chairman
Fair Political Practices Commission